

4 May 1978

ARTICLE APPEARED
ON PAGE A-6

Lawyers in Spy Trial Try to Prove Data Not Secret

By Jane Seaberry

Washington Post Staff Writer

Attorneys for two men charged with espionage yesterday challenged the secrecy classification of most of the documents, letters, photographs and other items seized by the FBI after the men were arrested.

In one instance, attorneys for Vietnamese expatriate David Truong and former United States Information Agency employee Ronald L. Humphrey drew the admission from an FBI agent under cross-examination that a document marked "Top Secret" taken from Truong's apartment had been written in 1949 and was declassified in the 1960s.

In another instance, the attorneys cited two pieces of paper taken from Truong's Northwest Washington apartment that were described as containing diagrams with terms used by Soviet agents.

Under cross-examination, Donald W. Marsland, chief of an FBI counterintelligence squad, testified that the papers—enlarged copies of which were supplied for the jurors—were pages from a book called "Handbook for Spies" written in 1949 about the Soviet Union during World War II. The book is available in some public libraries.

Federal prosecutors spent most of yesterday's trial session presenting items seized in searches of Truong's apartment and Humphrey's office and van last Jan. 31, attempting to buttress their contention that the two conspired to steal classified government documents with the aim of harming national security.

Truong and Humphrey are being tried in U.S. District Court in Alexandria on charges they funneled classified diplomatic documents to the Hanoi government through an international espionage network.

Humphrey is accused of taking the documents from his USIA office and giving them to Truong, who is accused of sending them through couriers to Hanoi officials in Paris.

The defense has contended since the two men were arrested Jan. 31 that the material in question is mere "diplomatic chitchat." Yesterday's cross-examination of FBI witnesses—which left many in the courtroom audience giggling—appeared designed to show that the defendants were merely using innocuous information obtained at the USIA to aid the normalization of relations between the U.S. and Vietnam.

Truong is an antiwar activist and has lobbied members of Congress and other officials and lectured on the need to normalize relations between the two countries, his attorneys say. Books and papers on Vietnam and other foreign relations issues were lectures rather than for espionage, they contend.

Humphrey also was trying to help the normalization process because his Vietnamese common-law wife, Kim, was imprisoned in Vietnam, according to his attorneys.

U.S. Attorney William B. Cummings said after yesterday's hearing that the documents, letters and photographs introduced into evidence so far are "about all" the government has to show from the searches conducted following the arrests.

A number of classified diplomatic cables that Humphrey is accused of stealing and giving to Truong, who al-

legedly gave them to a courier, have not yet been reviewed at the trial. Cummings said evidence concerning the cables will probably be presented today.

The FBI allegedly examined some of the cables before they were passed on to the Hanoi government representatives, obtaining them from the courier, who was an informant in the pay of the FBI and CIA.

The defense contends that the government overclassifies documents and that if the cables were so important, the FBI would not have allowed them to be delivered by the informant.

Yesterday FBI agent William Fleshman testified that the FBI received 33 cables and other items given to the informant by Truong in June 1977. One

of the cables was marked "Secret," he said.

Under cross-examination by Marvin Miller, one of Truong's attorneys, Fleshman testified that the "secret" cable consisted of an interview on the subject of soldiers missing in action in Vietnam that had been printed by United Press International wire service.

Other items transported by the informant were copies of the Congressional Record and books on agriculture in less developed countries, investment, fish protein concentrate, crops, soil, available oceanographic resources and U.S. Government Printing Office reports on human rights, Fleshman said.

FBI agent Michael J. Fitzgerald testified that during the Jan. 31 search of Truong's apartment at 2000 F St. NW, he seized three listings of destroyed or stored documents concerning Vietnam. Under cross-examination by Miller, Fitzgerald acknowledged that the paper was written in 1949, and was published by the General Services Administration and not the FBI or CIA.

Fitzgerald also testified that he took from Truong's apartment a photographic slide labeled "... plane B-52 strike over Washington, D.C. (a typical strike)."

Again, Miller asked Fitzgerald if he knew the slide was from a show given around the country by antiwar activists.

"To your knowledge, no B-52s have ever bombed Washington?" Miller asked. "No," Fitzgerald replied. Courtroom spectators giggled. Some jurors smiled.

FBI agent Richard C. Carter testified he seized three photocopies of State Department biographies on foreign service personnel from Truong's apartment. The papers had typed on them, "Almost definite spook." Spook is a slang expression for CIA undercover agent. Carter later conceded under Miller's questioning that the document was unclassified.

Also presented by the government was a picture of Truong and another Oriental standing in front of a picture of Ho Chi Minh.

Miller, whose manner became increasingly sarcastic as he continued his cross-examination, said of the second of two "Top Secret" documents presented yesterday by the prosecution: "That 'Top Secret' piece of paper, that's not from the U.S. Government, is it?"

After examining the document for several seconds, FBI agent Robert W. Truan said he didn't know.

Truan conceded under cross-examination that he didn't know if the document was from any government at all.